



House of Representatives

General Assembly

File No. 125

January Session, 2017

Substitute House Bill No. 7013

House of Representatives, March 22, 2017

The Committee on Insurance and Real Estate reported through REP. SCANLON of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE COMPANIES AS DOMESTIC SURPLUS LINES INSURERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2017*) (a) A domestic insurance
- 2 company that has policyholder surplus of at least fifteen million
- 3 dollars may, pursuant to a resolution adopted by its board of directors
- 4 and with the approval of the Insurance Commissioner, be designated
- 5 as a domestic surplus lines insurer.
- 6 (b) A domestic surplus lines insurer (1) shall be considered an
- 7 unauthorized insurer for the purposes of writing surplus lines
- 8 insurance coverage in this state, (2) shall, with respect to surplus lines
- 9 insurance written in this state, be considered a nonadmitted insurer
- 10 under 15 USC 8206, as amended from time to time, and (3) shall only
- 11 write surplus lines insurance in this state in accordance with the
- 12 provisions of chapter 701d of the general statutes from a surplus lines

13 broker licensed under section 38a-794 of the general statutes.

14 (c) Surplus lines insurance written by a domestic surplus lines
15 insurer shall be (1) subject to the tax imposed under section 38a-743 of
16 the general statutes, and (2) exempt from the tax imposed under
17 section 12-202 of the general statutes, as amended by this act.

18 (d) Surplus lines insurance policies issued by a domestic surplus
19 lines insurer in this state shall not be subject to (1) the protection of the
20 Connecticut Insurance Guaranty Association or the provisions of
21 sections 38a-836 to 38a-853, inclusive, of the general statutes, and (2)
22 any requirements relating to rates, rating plans, policy forms, policy
23 cancellation and policy nonrenewal, in the same manner and to the
24 same extent as surplus lines insurance policies issued by a surplus
25 lines insurer domiciled in another state.

26 Sec. 2. Section 38a-1 of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective July 1, 2017*):

28 Terms used in this title, unless it appears from the context to the
29 contrary, shall have a scope and meaning as set forth in this section.

30 (1) "Affiliate" or "affiliated" means a person that directly, or
31 indirectly through one or more intermediaries, controls, is controlled
32 by or is under common control with another person.

33 (2) "Alien insurer" [is defined in subparagraph (A) of subdivision
34 (11) of this section] means any insurer that has been chartered by or
35 organized or constituted within or under the laws of any jurisdiction
36 or country without the United States.

37 (3) "Annuities" means all agreements to make periodical payments
38 where the making or continuance of all or some of the series of the
39 payments, or the amount of the payment, is dependent upon the
40 continuance of human life or is for a specified term of years. This
41 definition does not apply to payments made under a policy of life
42 insurance.

43 (4) "Commissioner" means the Insurance Commissioner.

44 (5) "Control", "controlled by" or "under common control with"
45 means the possession, direct or indirect, of the power to direct or cause
46 the direction of the management and policies of a person, whether
47 through the ownership of voting securities, by contract other than a
48 commercial contract for goods or nonmanagement services, or
49 otherwise, unless the power is the result of an official position with the
50 person.

51 (6) "Domestic insurer" [is defined in subparagraph (B) of
52 subdivision (11) of this section] means any insurer that has been
53 chartered by, incorporated, organized or constituted within or under
54 the laws of this state.

55 (7) "Domestic surplus lines insurer" means any domestic insurer
56 that has been approved by the commissioner to write surplus lines
57 insurance.

58 [(7)] (8) "Foreign country" means any jurisdiction not in any state,
59 district or territory of the United States.

60 [(8)] (9) "Foreign insurer" [is defined in subparagraph (C) of
61 subdivision (11) of this section] means any insurer that has been
62 chartered by or organized or constituted within or under the laws of
63 another state or a territory of the United States.

64 [(9)] (10) "Insolvency" or "insolvent" means, for any insurer, that it is
65 unable to pay its obligations when they are due, or when its admitted
66 assets do not exceed its liabilities plus the greater of: (A) Capital and
67 surplus required by law for its organization and continued operation;
68 or (B) the total par or stated value of its authorized and issued capital
69 stock. For purposes of this subdivision "liabilities" shall include but not
70 be limited to reserves required by statute or by regulations adopted by
71 the commissioner in accordance with the provisions of chapter 54 or
72 specific requirements imposed by the commissioner upon a subject
73 company at the time of admission or subsequent thereto.

74 [(10)] (11) "Insurance" means any agreement to pay a sum of money,
75 provide services or any other thing of value on the happening of a
76 particular event or contingency or to provide indemnity for loss in
77 respect to a specified subject by specified perils in return for a
78 consideration. In any contract of insurance, an insured shall have an
79 interest which is subject to a risk of loss through destruction or
80 impairment of that interest, which risk is assumed by the insurer and
81 such assumption shall be part of a general scheme to distribute losses
82 among a large group of persons bearing similar risks in return for a
83 ratable contribution or other consideration.

84 [(11)] (12) "Insurer" or "insurance company" includes any person or
85 combination of persons doing any kind or form of insurance business
86 other than a fraternal benefit society, and shall include a receiver of
87 any insurer when the context reasonably permits. [When modified as
88 follows, the term has the following meanings:

89 (A) "Alien insurer" means any insurer that has been chartered by or
90 organized or constituted within or under the laws of any state or
91 country without the United States.

92 (B) "Domestic insurer" means any insurer that has been chartered
93 by, incorporated, organized or constituted within or under the laws of
94 this state.

95 (C) "Foreign insurer" means any insurer that has been chartered by
96 or organized or constituted within or under the laws of another state
97 or a territory of the United States.

98 (D) "Mutual insurer" means any insurance company without capital
99 stock, the managing directors or officers of which are elected by its
100 members.

101 (E) "Unauthorized insurer" or "nonadmitted insurer" means an
102 insurer that has not been granted a certificate of authority by the
103 commissioner to transact the business of insurance in this state or an
104 insurer transacting business not authorized by a valid certificate.]

105 [(12)] (13) "Insured" means a person to whom or for whose benefit
106 an insurer makes a promise in an insurance policy. The term includes
107 policyholders, subscribers, members and beneficiaries. This definition
108 applies only to the provisions of this title and does not define the
109 meaning of this word as used in insurance policies or certificates.

110 [(13)] (14) "Life insurance" means insurance on human lives and
111 insurances pertaining to or connected with human life. The business of
112 life insurance includes granting endowment benefits, granting
113 additional benefits in the event of death by accident or accidental
114 means, granting additional benefits in the event of the total and
115 permanent disability of the insured, and providing optional methods
116 of settlement of proceeds. Life insurance includes burial contracts to
117 the extent provided by section 38a-464.

118 (15) "Mutual insurer" means any insurer without capital stock, the
119 managing directors or officers of which are elected by its members.

120 [(14)] (16) "Person" means an individual, a corporation, a
121 partnership, a limited liability company, an association, a joint stock
122 company, a business trust, an unincorporated organization or other
123 legal entity.

124 [(15)] (17) "Policy" means any document, including attached
125 endorsements and riders, purporting to be an enforceable contract,
126 which memorializes in writing some or all of the terms of an insurance
127 contract.

128 [(16)] (18) "State" means any state, district, or territory of the United
129 States.

130 [(17)] (19) "Subsidiary" of a specified person means an affiliate
131 controlled by the person directly, or indirectly through one or more
132 intermediaries.

133 [(18)] (20) "Unauthorized insurer" [is defined in subparagraph (E) of
134 subdivision (11) of this section] or "nonadmitted insurer" means an
135 insurer that has not been granted a certificate of authority by the

136 commissioner to transact the business of insurance in this state or an
137 insurer transacting business not authorized by a valid certificate.

138 [(19)] (21) "United States" means the United States of America, its
139 territories and possessions, the Commonwealth of Puerto Rico and the
140 District of Columbia.

141 Sec. 3. Section 12-202 of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective July 1, 2017*):

143 (a) Each domestic insurance company shall, annually, pay a tax on
144 the total net direct premiums received by such company during the
145 calendar year next preceding from policies written on property or risks
146 located or resident in this state. The rate of tax on all net direct
147 insurance premiums received on and after January 1, 1995, shall be one
148 and three-quarters per cent. The franchise tax imposed under this
149 section on premium income for the privilege of doing business in the
150 state is in addition to the tax imposed under chapter 208. In the case of
151 any local domestic insurance company the admitted assets of which as
152 of the end of an income year do not exceed ninety-five million dollars,
153 eighty per cent of the tax paid by such company under chapter 208
154 during such income year reduced by any refunds of taxes paid by such
155 company and granted under said chapter within such income year and
156 eighty per cent of the assessment paid by such company under section
157 38a-48, as amended by this act, during such income year shall be
158 allowed as a credit in the determination of the tax under this chapter
159 payable with respect to total net direct premiums received during such
160 income year, provided that these two credits shall not reduce the tax
161 under this chapter to less than zero, and provided further in the case of
162 a local domestic insurance company [which] that is a member of an
163 insurance holding company system, as defined in section 38a-129,
164 these credits shall apply if the total admitted assets of the local
165 domestic insurance company and its affiliates, as defined in said
166 section, do not exceed two hundred fifty million dollars or, in the
167 alternative, in the case of a local domestic insurance company [which]
168 that is a member of an insurance holding company system, [as defined

169 in section 38a-129,] these credits shall apply only if total direct written
170 premiums are derived from policies issued or delivered in
171 Connecticut, on risk located in Connecticut and, as of the end of the
172 income year the company and its affiliates have admitted assets minus
173 unpaid losses and loss adjustment expenses that are also discounted
174 for federal and state tax purposes and [which] that for [said] such local
175 domestic insurance company and its affiliates, as defined in [said]
176 section 38a-129, do not exceed two hundred fifty million dollars.

177 (b) Notwithstanding the provisions of subsection (a) of this section,
178 the tax shall not apply to surplus lines insurance policies issued by
179 domestic insurance companies designated as surplus lines insurers
180 pursuant to section 1 of this act.

181 Sec. 4. Subsection (a) of section 38a-48 of the general statutes is
182 repealed and the following is substituted in lieu thereof (*Effective July*
183 *1, 2017*):

184 (a) On or before June thirtieth, annually, the Commissioner of
185 Revenue Services shall render to the Insurance Commissioner a
186 statement certifying the amount of taxes or charges imposed on each
187 domestic insurance company or other domestic entity under chapter
188 207 on business done in this state during the preceding calendar year.
189 The statement for local domestic insurance companies shall set forth
190 the amount of taxes and charges before any tax credits allowed as
191 provided in subsection (a) of section 12-202, as amended by this act.

192 Sec. 5. Subsection (d) of section 38a-48 of the general statutes is
193 repealed and the following is substituted in lieu thereof (*Effective July*
194 *1, 2017*):

195 (d) For purposes of calculating the amount of payment under
196 section 38a-47, as well as the amount of the assessments under this
197 section, the "total taxes imposed on all domestic insurance companies
198 and other domestic entities under chapter 207" shall be based upon the
199 amounts shown as payable to the state for the calendar year on the
200 returns filed with the Commissioner of Revenue Services pursuant to

201 chapter 207; with respect to calculating the amount of payment and
202 assessment for local domestic insurance companies, the amount used
203 shall be the taxes and charges imposed before any tax credits allowed
204 as provided in subsection (a) of section 12-202, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	New section
Sec. 2	<i>July 1, 2017</i>	38a-1
Sec. 3	<i>July 1, 2017</i>	12-202
Sec. 4	<i>July 1, 2017</i>	38a-48(a)
Sec. 5	<i>July 1, 2017</i>	38a-48(d)

Statement of Legislative Commissioners:

Section 5 was added to make conforming changes with respect to Section 4.

INS *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Resources of the General Fund	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows the insurance commissioner to designate a domestic insurance company as a “domestic surplus lines insurer” and subjects any such company to a 4% gross premiums tax. This results in a potential revenue gain beginning in FY 18 to the extent that an eligible domestic insurer seeks such status and the insurance commissioner allows it.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7013*****AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE COMPANIES AS DOMESTIC SURPLUS LINES INSURERS.*****SUMMARY**

This bill allows the insurance commissioner to designate a domestic insurance company as a “domestic surplus lines insurer” subject to certain conditions. To be so designated, the insurer must have a policyholder surplus (i.e., net worth) of at least \$15 million and be acting pursuant to a board of directors’ resolution. Such a designation allows the insurer to market surplus lines insurance in Connecticut. Under current law, a domestic insurer cannot do so.

Surplus lines insurance, also referred to as nonadmitted insurance, provides coverage for high risk needs that is not available in the traditional, licensed (i.e., admitted) market.

Under the bill, surplus lines insurance policies written by a domestic surplus lines insurer are subject to a 4% gross premium tax, but are exempt from the 1.75% premium tax that domestic insurers pay. Additionally, a domestic surplus lines insurer can only write policies in accordance with state surplus lines laws and from a surplus lines broker licensed by the Insurance Department.

The bill specifies that a domestic surplus lines insurer is a nonadmitted, or unauthorized, insurer under state law and for purposes of the 2010 federal Nonadmitted and Reinsurance Reform Act (15 U.S.C. § 8206). (The federal law requires states to adopt uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance policies.)

Under the bill, surplus lines insurance issued in the state by a domestic surplus lines insurer is not covered by the Connecticut Insurance Guaranty Association Act. (The guaranty association protects insurance consumers from financial loss in the case of an insurance company's insolvency.) The bill also specifies that domestic surplus lines insurance is exempt from requirements for rates, rating plans, policy forms, cancellation, and nonrenewal to the same extent as surplus lines insurance issued by an insurer domiciled in another state.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2017

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 2 (03/07/2017)